

<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

result of his employment-related right plantar fasciitis. He submitted a narrative statement and asserted that his current right foot condition was the result of walking and standing in the performance of duty and an abnormal gait due to his accepted plantar fasciitis. Appellant submitted a treatment note dated February 26, 2013 from Dr. James R. LaRose, a podiatrist, who diagnosed a peroneal brevis tendon tear of the right ankle. Dr. LaRose noted that appellant had no direct injury to his right ankle or foot, just continuous use.

In a letter dated March 27, 2013, OWCP requested additional factual and medical evidence from appellant. On April 12, 2013 appellant responded that he stood and walked from six to seven hours a day and had an abnormal gait from his employment-related plantar fasciitis.

By decision dated June 17, 2013, OWCP denied appellant's claim. It found that Dr. LaRose's February 26, 2013 note did not provide sufficient medical rationale to establish that his right foot condition was causally related to his employment.

Appellant requested reconsideration on July 18, 2013. He stated that he was submitting additional medical evidence from his physician. The record, however, does not contain any additional medical evidence.

In a decision dated October 16, 2013, OWCP declined to reopen appellant's claim for reconsideration of the merits on the grounds that he failed to support his request for reconsideration with new evidence or argument.

### **LEGAL PRECEDENT**

FECA provides in section 8128(a) that OWCP may review an award for or against payment of compensation at any time on its own motion or on application by the claimant.<sup>2</sup> Section 10.606(b) of the Code of Federal Regulations provide that a claimant may obtain review of the merits of the claim by submitting in writing an application for reconsideration which sets forth arguments or evidence and shows that OWCP erroneously applied or interpreted a specific point of law; or advances a relevant legal argument not previously considered by OWCP; or includes relevant and pertinent new evidence not previously considered by OWCP.<sup>3</sup> Section 10.608 of OWCP's regulations provide that, when a request for reconsideration is timely, but does meet at least one of these three requirements, OWCP will deny the application for review without reopening the case for a review on the merits.<sup>4</sup>

### **ANALYSIS**

Appellant requested reconsideration of OWCP's June 17, 2013 merit decision denying his occupational disease claim on July 18, 2013. He noted that he was submitting additional medical evidence in support of his request for reconsideration, but the record does not contain

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<sup>2</sup> 5 U.S.C. §§ 8101-8193, 8128(a).

<sup>3</sup> 20 C.F.R. § 10.606.

<sup>4</sup> *Id.* at § 10.608.

any new evidence following the June 17, 2013 decision. As appellant failed to show that OWCP erroneously applied or interpreted a specific point of law, failed to advance a relevant legal argument not previously considered by OWCP and failed to include relevant and pertinent new evidence not previously considered by OWCP, the Board finds that OWCP properly declined to reopen appellant's claim for consideration of the merits.

### **CONCLUSION**

The Board finds that OWCP properly declined to reopen appellant's claim for reconsideration of the merits.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the October 16, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 17, 2014  
Washington, DC

Patricia Howard Fitzgerald, Acting Chief Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge  
Employees' Compensation Appeals Board